

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

RUSAVIAINVEST, OOO,

Plaintiff,

v.

No. 18 Civ. 5676 (PGG)

STEVEN T. MNUCHIN, in his official capacity as the Secretary of the Treasury; ANDREA M. GACKI, in her official capacity as the Director of the Office of Foreign Assets Control; WILLIAM BARR, in his official capacity as the Attorney General of the United States; and UNITED STATES DEPARTMENT OF THE TREASURY, OFFICE OF FOREIGN ASSETS CONTROL,

Defendants.

DECLARATION OF MICHAEL W. MASON

I, Michael W. Mason, declare as follows:

1. I am the Deputy Assistant Secretary for Security and Counterintelligence at the Department of the Treasury, which, among other things, is responsible for the security of information and documents that come into the possession or control of Treasury and are or become subject to Executive Order 13526 (EO 13526) concerning the handling of classified national security information. I direct and administer the implementation of Treasury's program to protect classified national security information under EO 13526. I also have original classification authority up to the Top Secret level.

2. I make this statement based upon my personal knowledge and information made available to me in my official capacity, and I have reviewed the materials discussed herein.

3. I submit this declaration on behalf of the Government in support of the motion for summary judgment in the above-captioned case. This declaration provides unclassified, non-

privileged explanations of the two classified declarations that the Government is submitting to the Court for its *ex parte, in camera* review.

4. The first classified declaration explains the basis for the Government's assertion of the law enforcement privilege over certain information in the Administrative Record. That information includes details about law enforcement techniques and procedures that have not been made public. The disclosure of this information would cause harm to an ongoing investigation by the Office of Foreign Assets Control as well as to potential future investigations. I respectfully refer the Court to the classified declaration for further discussion about this privilege.

5. The second classified declaration explains that certain parts of the classified portion of the Administrative Record that are labelled as (U) or unclassified, are actually classified by compilation under EO 13526.

6. EO 13526 provides in section 1.1(a) that information may be originally classified under the terms of this order only if all of the following conditions are met: (1) an original classification authority is classifying the information; (2) the information is owned by, produced by or for, or is under the control of the U.S. Government; (3) the information falls within one or more of the categories of information listed in section 1.4 of EO 13526; and (4) the original classification authority determines that the unauthorized disclosure of the information reasonably could be expected to result in some level of damage to the national security and the original classification authority is able to identify or describe the damage. Section 2.1 of EO 13526 allows for the derivative classification of material that is reproduced, extracted, or summarizes classified information.

7. Section 1.4 of EO 13526 identifies the following information classification categories, the disclosure of which could reasonably be expected to cause identifiable or describable damage to the national security: (a) military plans, weapons systems, or operations; (b) foreign government information; (c) intelligence activities (including covert action), intelligence sources or methods, or cryptology; (d) foreign relations or foreign activities of the United States, including confidential sources; (e) scientific, technological, or economic matters relating to the national security; (f) United States Government programs for safeguarding nuclear materials or facilities; (g) vulnerabilities or capabilities of systems, installations, infrastructures, projects, plans, or protection services relating to the national security; or (h) the development, production, or use of weapons of mass destruction.

8. Pursuant to Section 1.7(e) of EO 13526, the compilation of items of information that are individually unclassified may be classified if the compiled information reveals an additional association or relationship that: (1) meets the standard for classification under EO 13526; and (2) is not otherwise revealed in the individual items of information.

9. In this case, information that is unclassified in isolation has been redacted from the Administrative Record because it includes information that, when compiled in the aggregate, would reveal classified information, and accordingly, is also classified and appropriately withheld. I respectfully refer the Court to the classified declaration for further discussion about this information.

10. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed this 20 day of March, 2019.

A handwritten signature in black ink, appearing to read "Michael W. Mason", written over a horizontal line.

Michael W. Mason
Deputy Assistant Secretary
Security and Counterintelligence
Department of the Treasury